

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ELMER ALEXANDER ANDRADE,

Defendant.

**8:18CR28**

**ORDER**

This matter is before the Court on defendant Elmer Alexander Andrade's ("Andrade") Motion to Suppress Evidence and Request for Hearing and Oral Argument (Filing No. 47). Andrade seeks to suppress evidence seized from his vehicle following what he contends was an unconstitutional traffic stop on January 18, 2018, on a county road near Wood River, Nebraska. *See* U.S. Const. amend. IV. Andrade further seeks to suppress evidence seized from his residence pursuant to a warrant obtained after the allegedly unconstitutional stop and arrest.

Andrade's motion was assigned to a magistrate judge.<sup>1</sup> *See* 28 U.S.C. § 636(b) (authorizing district judges to designate a magistrate judge to conduct a hearing and submit proposed factual findings and a recommendation for disposition of a motion to suppress, subject to de novo review of any objections). After a hearing at which she took evidence and heard oral argument, the magistrate judge issued a Findings and Recommendation (Filing No. 74) recommending that the motion be denied. The magistrate judge reasoned that Nebraska State Patrol Trooper Greg Goltz had probable cause to make the stop and had reasonable suspicion of drug-trafficking to prolong the stop to allow a drug dog to sniff

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<sup>1</sup>The Honorable Susan M. Bazis, United States Magistrate Judge for the District of Nebraska.

Andrade's vehicle. The magistrate judge further concluded the search warrant for Andrade's residence "was not defective or otherwise obtained unlawfully."

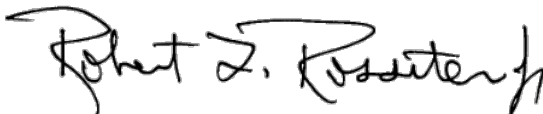
Andrade did not object to the magistrate judge's proposed findings and recommendation within the fourteen days allowed by § 636(b). That decision obviates the need for further review by this Court. *See Peretz v. United States*, 501 U.S. 923, 939 (1991); *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609, 619-20 (8th Cir. 2009) ("[T]he failure to file objections eliminates not only the need for de novo review, but any review by the district court."); *see also* Fed. R. Crim. P. 59 (a), (b)(2); NECrimR 59.2(a), (e). Accordingly,

IT IS ORDERED:

1. The magistrate judge's Findings and Recommendation (Filing No. 74) is accepted in its entirety. Any objections are deemed waived.
2. Defendant Elmer Alexander Andrade's Motion to Suppress (Filing No. 47) is denied.

Dated this 22nd day of October 2018.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.  
United States District Judge